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23 **UNITED STATES DISTRICT COURT**

24 **NORTHERN DISTRICT OF CALIFORNIA**

25 DAVID LOFTON,

26 Case No. C12-03835 MMC

27 Plaintiff,

28 **[PROPOSED] STIPULATED
PROTECTIVE ORDER**

v.

29 Complaint Filed: July 23, 2012

30 ZURICH AMERICAN INSURANCE
31 COMPANY,

32 Defendant.

1 The undersigned parties, by and through their respective counsel, hereby stipulate that the Court
2 may enter a protective order on the following terms and conditions:

3 1. For purposes of this Stipulated Protective Order:

4 (a) The term "CONFIDENTIAL INFORMATION" shall mean (i) information
5 regarding the financial affairs or condition of any of the undersigned parties, and/or (ii) private
6 employee/personnel information of any third party who has worked for Defendant Zurich
7 American Insurance Company.

8 (b) The term "WRITING" shall mean any handwriting, typewriting, printing,
9 photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every
10 other means of recording upon any tangible thing, any form of communication or representation,
11 including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record
12 thereby created, regardless of the manner in which the record has been stored.

13 (c) The term "CONFIDENTIAL WRITING" shall mean a WRITING (i) containing
14 CONFIDENTIAL INFORMATION, and (ii) prominently marked with the term
15 "CONFIDENTIAL".

16 (d) The term "AUTHORIZED PARTY" shall mean (i) any of the named parties to this
17 action, (ii) any employee of a law firm representing a named party to this action, or (iii) any expert
18 witness or consultant retained by or on behalf of a named party to this action.

19 2. Any person who receives CONFIDENTIAL INFORMATION shall be prohibited
20 from disclosing such information to another person unless that person (i) qualifies as an
21 AUTHORIZED PARTY, and (ii) expressly agrees to abide by this Stipulated Protective Order by
22 signing the acknowledgement and agreement to be bound as set forth in Exhibit A.

23 3. Any person who receives CONFIDENTIAL INFORMATION shall use such
24 information only for purposes of litigation, settlement, or resolution of this action. No person or
25 entity may use such information for any other purpose, either directly or indirectly. Unauthorized use
26 includes, but is not limited to, use for business competition or any other commercial reason.

27 4. Any CONFIDENTIAL WRITING filed or submitted to the Court shall be placed
28 under seal subject to release or inspection only by order of the Court or consent of the producing

1 party. However, the parties acknowledge that this Stipulated Protective Order does not entitle them
2 to file confidential information under seal; Civil Local Rule 79-5 and General Order 62 set forth
3 the procedures that must be followed and the standards that will be applied when a party seeks
4 permission from the court to file material under seal.

5 5. Within thirty (30) days after the final resolution of this action, including but not
6 limited to appellate proceedings, any person or entity who has received CONFIDENTIAL
7 WRITINGS shall at the request of the party who produced the writings either declare that they
8 have destroyed or return those writings and all copies thereof, including all extracts and summaries
9 thereof and all documents containing information derived therefrom, except attorney work product,
10 to counsel for the party who produced the information.

11 6. The Court reserves the right to modify or revoke this Stipulated Protective Order for
12 good cause, either on its own motion or upon the request of a party.

13 7. Nothing herein shall prevent a party from challenging the designation of
14 information as "CONFIDENTIAL INFORMATION." The designating party shall bear the burden
15 of establishing confidentiality if the designation is challenged in court.

16 8. Nothing herein shall prevent a party from waiving the protections afforded by this
17 Stipulated Protective Order. Any such waiver shall be in writing and shall be signed by the
18 waiving party or its attorney. Inadvertent disclosure shall not constitute a waiver of any protections
19 afforded by this order.

20 9. Except as expressly set forth herein, no portion of this order shall constitute a
21 waiver of any right, privilege, claim, or defense now held by any person or party. Nothing herein
22 shall constitute an admission that particular information constitutes confidential, proprietary, or
23 trade secret information under any provision of law. Nothing herein shall prevent a party from
24 opposing production of information or objecting to its admissibility into evidence on any lawful
25 ground.

26 10. Any party may move for injunctive relief to prevent actual or threatened violation of
27 this Stipulated Protective Order. Injunctive relief shall not be denied on the ground that the moving
28 party possesses an adequate remedy at law.

1 11. In any proceeding to interpret or enforce this Stipulated Protective Order, the
2 prevailing party shall be entitled to recover reasonable attorneys' fees actually incurred.
3
4

5 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**
6

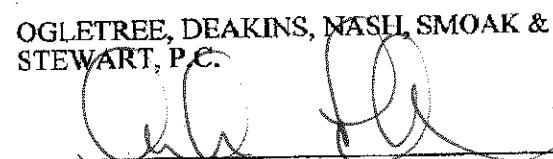
7 DATED: 2-19-13
8

9 DONAHUE GALLAGHER WOODS LLP
10

11 
12 GEORGE J. BARRON
13 ANDREW S. MACKAY
14 Attorneys for Plaintiff
15 DAVID LOFTON
16

17 DATED: 2/19/13
18

19 OGLETREE, DEAKINS, NASH, SMOAK &
20 STEWART, P.C.
21

22 
23 DANIELLE OCHS-TILLOTSON
24 ANDREA L. FELLION
25 Attorneys for Defendant
26 ZURICH AMERICAN INSURANCE
27 COMPANY
28

17 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**
18

19 DATED: February 22, 2013
20

21 
22 HON. MAXINE CHESNEY
23 United States District Judge
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27
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of _____
4 [print or type full address], declare under penalty of perjury that I have read in its entirety and understand
5 the Stipulated Protective Order that was issued by the United States District Court for the Northern District
6 of California on _____ in the case of **David Lofton v. Zurich American Insurance Company**,
7 **United States District Court for the Northern District of California Case No. C 12-03835 DMR**. I agree
8 to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and
9 acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of
10 contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject
11 to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of
12 this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for the Northern
14 District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such
15 enforcement proceedings occur after termination of this action.

17 Date: _____

18 | City and State where sworn and signed: _____

20 Printed name: _____
21 [printed name]

22 Signature: _____
[signature]

25 | 14133944.1 (OGLETREE)